

DEPARTMENT OF THE TREASURY
Office of the Comptroller of the Currency
12 CFR Part 3
[Docket No. _____]
RIN _____

FEDERAL RESERVE SYSTEM
12 CFR Part 208
[Regulation H; Docket No. R-0947]

FEDERAL DEPOSIT INSURANCE CORPORATION
12 CFR Part 325
RIN 3064-AB 96

DEPARTMENT OF THE TREASURY
Office of Thrift Supervision
12 CFR Part 567
[Docket No. _____]
RIN 1550-AA98

**Risk-Based Capital Standards: Construction Loans on Presold Residential Properties;
Junior Liens on 1- to 4-Family Residential Properties; and Mutual Funds.**
Leverage Capital Standards: Tier 1 Leverage Ratio

AGENCIES: Office of the Comptroller of the Currency, Treasury; Board of Governors of the Federal Reserve System; Federal Deposit Insurance Corporation; and Office of Thrift Supervision, Treasury.

ACTION: Joint notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Federal Reserve), the Federal Deposit Insurance Corporation (FDIC), and the Office of Thrift Supervision (OTS) (Agencies) are proposing to amend their respective risk-based capital standards and leverage capital standards for banks and thrifts.

The proposal would represent a significant step in implementing section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994, with regard to the Agencies' capital adequacy standards. (Section 303 requires the Agencies to work jointly to make uniform their regulations and guidelines implementing common statutory or supervisory policies.) The effect of the proposal would be that the Agencies would have uniform risk-based capital treatments for construction loans on presold residential properties, real estate loans secured by junior liens on 1- to 4-family residential properties, and investments in mutual funds, as well as uniform and simplified minimum Tier 1 leverage standards.

DATES: Comments must be received on or before [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Comments should be directed to:

OCC: Comments may be submitted to Docket No. [____], Communications Division, Third Floor, Office of the Comptroller of the Currency, 250 E Street, S.W., Washington, D.C., 20219. Comments will be available for inspection and photocopying at that address. In addition, comments may be sent by facsimile transmission to FAX number (202) 874-5274, or by electronic mail to REG.COMMENTS@OCC.TREAS.GOV.

Federal Reserve: Comments directed to the Board should refer to Docket No. R-0947 and may be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington D.C., 20551. Comments may also be delivered to Room B-2222 of the Eccles Building between

8:45 a.m. and 5:15 p.m. weekdays, or the guard station in the Eccles Building courtyard on 20th Street, N.W. (between Constitution Avenue and C Street) at any time. Comments may be inspected in Room MP-500 of the Martin Building between 9 a.m. and 5 p.m. weekdays, except as provided in 12 CFR 261.8 of the Board's rules regarding availability of information.

FDIC: Written comments should be sent to Jerry L. Langley, Executive Secretary, Attention: Room F--402, Federal Deposit Insurance Corporation, 550 17th Street N.W., Washington, D.C. 20429. Comments may be hand delivered to Room F-402, 1776 F Street N.W., Washington, D.C. 20429 on business days between 8:30 a.m. and 5 p.m. (Fax number (202) 898-3838; Internet address: comments@fdic.gov). Comments will be available for inspection and photocopying in Room 100, 801 17th Street, N.W., Washington, D.C. 20429, between 9 a.m. and 5:00 p.m. on business days.

OTS: Send comments to Manager, Dissemination Branch, Records Management and Information Policy, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, Attention Docket No. [_____]. These submissions may be hand-delivered to 1700 G Street, N.W., from 9:00 a.m. to 5:00 p.m. on business days; they may be sent by facsimile transmission to FAX number (202) 906-7755. Comments will be available for inspection at 1700 G Street, N.W., from 9:00 a.m. until 4:00 p.m. on business days.

FOR FURTHER INFORMATION CONTACT:

OCC: Roger Tufts, Senior Economic Advisor (202/ 874-5070), Christina Benson, Capital Markets Specialist (202/874-5070), Office of the Chief National Bank Examiner, or Ronald Shimabukuro, Senior Attorney (202/874-5090), Legislative and

Regulatory Activities Division.

Federal Reserve: Roger Cole, Deputy Associate Director (202/452-2618), Norah Barger, Manager (202/452-2402), Barbara Bouchard, Supervisory Financial Analyst (202/452-3072), Division of Banking Supervision and Regulation. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), Dorothea Thompson (202/452-3544).

FDIC: For supervisory issues, Stephen G. Pfeifer, Examination Specialist, Accounting Section, Division of Supervision (202/898-8904); for legal issues, Jamey Basham, Counsel, Legal Division (202/898-7265).

OTS: John F. Connolly, Senior Program Manager for Capital Policy, (202/906-6465), Michael D. Solomon, Policy Advisor (202/906-5654), Supervision Policy; or Karen Osterloh, Assistant Chief Counsel, (202/906-6639), Regulations and Legislation Division, Office of the Chief Counsel.

SUPPLEMENTARY INFORMATION:

Section 303(a)(2) of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4803(a)) (Riegle Act) provides that the Agencies shall, consistent with the principles of safety and soundness, statutory law and policy, and the public interest, work jointly to make uniform all regulations and guidelines implementing common statutory or supervisory policies. Section 303(a)(1) of the Riegle Act requires the Agencies to review their own regulations and written policies and to streamline those regulations and policies where possible. To fulfill the section 303 mandate, the Agencies have been reviewing, on an interagency basis and internally, their capital standards to identify

areas where they have substantively different capital treatments or where streamlining would be appropriate. As a result of these reviews, the Agencies have identified inconsistencies in the risk-based capital treatment of certain types of transactions, in particular, construction loans on presold residential properties, loans secured by junior liens on 1- to 4-family residential property, and investments in mutual funds.¹ The Agencies have also determined that the minimum leverage capital standards could be streamlined and made uniform between the three banking agencies and the OTS.

The Agencies are proposing various amendments to their risk-based capital and leverage standards to eliminate these differences and to streamline their rules.

Proposed Amendments

Construction Loans on Presold Residential Property

The Agencies all assign a qualifying loan to a builder to finance the construction of a presold 1- to 4-family residential property to the 50 percent risk-weight category, provided the borrower has a substantial equity interest in the project, the property has been presold under a binding contract, the purchaser has a firm commitment for a permanent qualifying mortgage loan, and the purchaser has made a substantial earnest money deposit. Under the OCC and OTS rules, the construction loan may not receive a 50 percent risk weight unless, prior to the extension of credit to the builder, the property was sold to an

¹The Agencies also identified inconsistencies in their treatment of transactions supported by qualifying collateral, which are addressed in a pending Joint Notice of Proposed Rulemaking, 61 FR 42565 (August 16, 1996).